

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515**

July 14, 2014

725

Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington D.C. 20554

Dear Chairman Wheeler and Commissioners Clyburn, Rosenworcel, Pai, and O'Rielly:

As the Federal Communications Commission (FCC) continues to accept comments on the "Protecting and Promoting the Open Internet" proposal, I write to express my strong support for FCC action that preserves an open Internet, safeguards free expression and consumer choice, fosters innovation and competition, and promotes continued investment in our nation's broadband networks. As you know, the Internet has become a critical tool that millions of Americans rely on to communicate with others, relay and receive emergency messages, and run their businesses. Transformative innovation made possible by our open Internet has been a significant driver of economic growth and job creation across the United States in the past two decades.

Just as you meet with stakeholders and solicit public comment, I regularly hear from constituents, small businesses, and startups in Michigan about this critical issue. As a Co-Chair of the bipartisan House Caucus on Innovation and Entrepreneurship, I have serious concerns about the impact the proposed rules may have on startups and small businesses. Fast-growing startups in Michigan and across the country rely on broadband and the certainty provided by a nondiscriminatory regulatory structure.

Allowing large, established corporations to purchase faster service puts these startups and small businesses at a disadvantage and stifles innovation. If large corporations can pay more for faster service for their content, this effectively creates a "slow lane" for everyone else. Fast-growing startups create a disproportionate number of new jobs across the United States, and these companies are the most negatively impacted when discriminatory rules create uncertainty and threaten the open structure of the Internet. Now more than ever, a robust net neutrality framework is critical to reaching the economic growth and job creation of which our nation is capable.

As you know, there have been significant developments in broadband and other telecommunications technology since the Telecommunications Act of 1996 was signed into law. While I believe Congress should engage in a comprehensive legislative process to examine updating this law, consumers, small businesses, startups, and investors cannot wait for Congress to act, thereby necessitating FCC rulemaking action in the short- and mid-term.

As these rules move through the public comment process and continue towards promulgation, I urge that you protect consumers and companies on both mobile and fixed platforms against

discrimination, blocking, and paid prioritization. Transparency and accountability for service providers and regulators alike is vital.

I join the other Members of Congress, stakeholders, and citizens who have written to urge you to consider all jurisdictional bases, including Title II authority with appropriate forbearance, to protect speakers and innovators.

It is my hope that an inclusive public comment period for the “Protecting and Promoting the Open Internet” proposal and further FCC consideration will yield a final rule that bars discrimination, demonstrates a commitment to meaningful network neutrality, protects innovation and free speech online, and promotes continued large-scale investment in broadband networks, both in Michigan and across our nation.

Sincerely,

A handwritten signature in blue ink, appearing to read "Gary C. Peters", is written over the word "Sincerely,".

Gary C. Peters  
Member of Congress





FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF  
THE CHAIRMAN

August 1, 2014

The Honorable Gary C. Peters  
U.S. House of Representatives  
1609 Longworth House Office Building  
Washington, D.C. 20510

Dear Congressman Peters:

Thank you for writing to express your concerns regarding the need to reinstate rules to preserve an open Internet for all Americans. I share your sense of urgency on this matter. For this reason, I moved with dispatch to initiate a proceeding to consider new open Internet rules to replace those that were vacated by the D.C. Circuit Court of Appeals in the *Verizon* case. As you know, the *Notice of Proposed Rulemaking* ("Notice") adopted by the Commission in May 2014 begins that process. Therein, we ask a number of questions about the rules we need to adopt, as well as the appropriate legal foundation for such rules. Your letter touches on some of the most important issues presented in the *Notice*, including how small businesses and startups can be affected. I will ensure that your letter is included in the record of the proceeding and considered as part of the Commission's review.

The Commission has struggled for over a decade with how best to protect and promote an open Internet. While there has been bipartisan consensus, starting under the Bush Administration with Chairman Powell, on the importance of an open Internet to economic growth, investment, and innovation, we find ourselves today faced with the worst case scenario: we have no Open Internet rules in place to stop broadband providers from limiting Internet openness. The *status quo* is unacceptable. The Commission has already found, and the court has agreed, that broadband providers have economic incentives and technological tools to engage in behavior that can limit Internet openness and harm consumers and competition. As such, the Commission must craft meaningful rules to protect the open Internet, and it must do so promptly. I can assure you that I will utilize the best tools available to me to ensure the Commission adopts effective and resilient open Internet rules. Unless and until the Commission adopts new rules, broadband providers will be free to block, degrade, or otherwise disadvantage innovative services on the Internet without threat of sanction by the FCC.

With respect to the legal foundation of the rules, our *Notice* proposes that the Section 706 framework set forth by the court provides us with the tools we need to adopt and implement robust and enforceable Open Internet rules. Nevertheless, as you specifically urge in your letter, the Commission is also seriously considering moving forward to adopt rules using Title II of the Communications Act as the foundation for our legal authority. The *Notice* asks specific questions about Title II, including whether the Commission should 1) revisit its classification of Broadband Internet Access as an information service; or 2) separately identify and classify as a



telecommunications service a service that “broadband providers . . . furnish to edge providers,” as proposed by Mozilla in a May 5, 2014, Petition filed with the agency. The *Notice* seeks comment on the benefits of both Section 706 and Title II, including the benefits of one approach over the other, to ensure the Internet remains an open platform for innovation and expression.

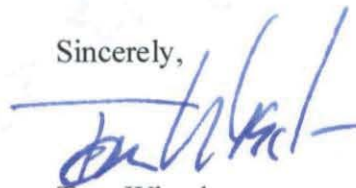
With respect to the substance of the rules, the proposals and questions in the *Notice* are designed to elicit a record that will give us a foundation to adopt strong, enforceable rules to protect the open Internet and prevent broadband providers from harming consumers or competition. I am especially sensitive to your concerns about paid prioritization arrangements, as well as the potential such arrangements have for creating an Internet that is fast for a few and slow for everyone else. Let me be crystal clear: there must only be one Internet. It must be fast, robust, and open for everyone. The *Notice* addresses this issue head-on, even asking if paid prioritization should be banned outright. It also proposes clear rules of the road and aggressive enforcement to prevent unfair treatment of consumers, edge providers, and innovators. Small companies and startups must be able to reach consumers with their innovative products and services, and they must be protected against harmful conduct by broadband providers.

The *Notice* includes a number of proposals designed to empower consumers and small businesses who may find themselves subject to harmful behavior by a broadband provider. For example, the Court of Appeals did uphold our existing transparency rule, and the *Notice* proposes to strengthen that rule to require that networks disclose *any* practices that could change a consumer’s or a content provider’s relationship with the network. The *Notice* proposes the creation of an ombudsperson to serve as a watchdog and advocate for start-ups, small businesses, and consumers. And the *Notice* seeks comment on how to ensure that all parties, and especially small businesses and start-ups, have effective access to the Commission’s dispute resolution and enforcement processes.

This *Notice* is the first step in the process, and I look forward to comments from all interested stakeholders, including members of the general public, as we develop a fulsome record on the many questions raised in the *Notice*. To that end, in an effort to maximize public participation in this proceeding, we have established an Open Internet e-mail address – [openinternet@fcc.gov](mailto:openinternet@fcc.gov) – to ensure that Americans who may not otherwise have the opportunity to participate in an FCC proceeding can make their voices heard. In addition, to ensure sufficient opportunity for broad public comment, we have provided a lengthy comment and reply period through September 10, 2014, that will allow everyone an opportunity to participate.

Again, I appreciate your deep interest in this matter and look forward to continued engagement with you as the proceeding moves forward.

Sincerely,



Tom Wheeler